6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[**EPA-R08-OAR-2016-0107; FRL-9946-18-Region 8]**

Approval and Promulgation of Air Quality Implementation Plans; Interstate Transport for Utah

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing action on the portions of two submissions from the State of Utah that are intended to demonstrate that the State Implementation Plan (SIP) meets certain interstate transport requirements of the Clean Air Act (Act or CAA). These submissions address the 2008 ozone National Ambient Air Quality Standards (NAAQS) and 2008 lead (Pb) NAAQS. Specifically, the EPA is proposing to approve interstate transport prongs 1 and 2 for the 2008 Pb NAAQS, and proposing to disapprove prongs 1 and 2 for the 2008 ozone NAAQS.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-OAR-2016-0107 at http://www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is

restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit http://www2.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Adam Clark, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129. (303) 312-7104, clark.adam@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

What should I consider as I prepare my comments for EPA?

1. Submitting Confidential Business Information (CBI). Do not submit CBI to EPA through http://www.regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. Tips for preparing your comments. When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register volume, date, and page number);
- Follow directions and organize your comments;
- Explain why you agree or disagree;
- Suggest alternatives and substitute language for your requested changes;
- Describe any assumptions and provide any technical information and/or data that you used;
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced;
- Provide specific examples to illustrate your concerns, and suggest alternatives;
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats; and
- Make sure to submit your comments by the comment period deadline identified.

II. Background

On March 12, 2008, EPA revised the levels of the primary and secondary 8-hour ozone standards to 0.075 parts per million (ppm) (73 FR 16436, March 27, 2008). On October 15, 2008, EPA revised the level of the primary and secondary Pb NAAQS to 0.15 $\mu g/m^3$ (73 FR 66964, Nov. 12, 2008).

Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address structural SIP elements such as requirements for monitoring, basic program

requirements, and legal authority that are designed to provide for implementation, maintenance, and enforcement of the NAAQS. The SIP submission required by these provisions is referred to as the "infrastructure" SIP. Section 110(a) imposes the obligation upon states to make a SIP submission to the EPA for a new or revised NAAQS, but the contents of individual state submissions may vary depending upon the facts and circumstances.

CAA Section 110(a)(2)(D)(i)(I) requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from emitting any air pollutant in amounts that will contribute significantly to nonattainment, or interfere with maintenance, of the NAAQS in another state (known as the "good neighbor" provision). The two provisions of this section are referred to as prong 1 (significant contribution to nonattainment) and prong 2 (interfere with maintenance). Section 110(a)(2)(D)(i)(II) requires SIPs to contain adequate provisions to prohibit emissions that will interfere with measures required to be included in the applicable implementation plan for any other state under part C to prevent significant deterioration of air quality (prong 3) or to protect visibility (prong 4).

In this action, the EPA is only addressing prongs 1 and 2 of CAA section 110(a)(2)(D)(i) with regard to the 2008 ozone and 2008 Pb NAAQS.

III. State Submissions and EPA's Assessment

The Utah Department of Environmental Quality (Department or UDEQ) submitted a certification of Utah's infrastructure SIP for the 2008 Pb NAAQS on January 19, 2012, a certification of Utah's infrastructure SIP for the 2008 ozone NAAQS on January 31, 2013, and a supplement regarding CAA section 110(a)(2)(D)(i)(I) with respect to the 2008 ozone NAAQS on

December 22, 2015.[1]

Each of these infrastructure certifications addressed all of the infrastructure elements including element (D).[2] In this action, we are only addressing element (D) prongs 1 and 2 from the 2008 Pb certification, 2008 ozone certification, and the December 22, 2015 supplement which addressed prongs 1 and 2 for the 2008 ozone NAAQS. All other infrastructure elements from these certifications are being addressed in separate actions.

2008 Ozone NAAQS

In its January 31, 2013 2008 ozone infrastructure submittal, UDEQ addressed 110(a)(2)(D)(i)(I) prongs 1 and 2 by citing EPA Administrator Gina McCarthy's November 19, 2012 memo[3] which outlined the EPA's intention to abide by the decision of the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) in *EME Homer City Generation, L.P. v. E.P.A.*, 696 F.3d 7 (D.C. Cir. 2012)). The *EME Homer City* decision addressed the Cross-State Air Pollution Rule (CSAPR) promulgated by the EPA to address the interstate transport requirements under section 110(a)(2)(D)(i)(I) with respect to the 1997 ozone NAAQS, the 1997 fine particulate matter ($PM_{2.5}$) NAAQS, and the 2006 $PM_{2.5}$ NAAQS. Among other things, the D.C. Circuit held that states did not have an obligation to submit SIPs addressing section 110(a)(2)(D)(i)(I) interstate transport requirements as to any NAAQS until the EPA first quantified each state's emissions reduction obligation. *Id.* at 30-31. In its submittal, the

1 The 110(a)(2)(D)(i)(I) 2008 ozone supplement was submitted as part of Utah's infrastructure SIP certification for the 2012 $PM_{2.5}$ NAAQS.
2 For discussion of other infrastructure elements, see EPA's "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and (2)," September 13, 2013.
3 Memo from Gina McCarthy to Air Division Directors, Regions 1-10 re: Next Steps for Pending Redesignation Requests and State Implementation Plan Actions Affected by the Recent Court Decision Vacating the 2011 Cross-State Air Pollution Rule (Nov. 19, 2012).

Department noted that the EPA had not quantified Utah's transport obligation as to the 2008 ozone NAAQS and that Utah's infrastructure SIP was therefore adequate with regard to prongs 1 and 2 of CAA section 110(a)(2)(D)(i)(I).

Subsequent to the UDEQ submission, on April 29, 2014, the U.S. Supreme Court reversed and remanded the D.C. Circuit's *EME Homer City* decision on CSAPR and held, among other things, that under the plain language of the CAA, states must submit SIPs addressing interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) within three years of the promulgation of a new or revised NAAQS, regardless of whether EPA first provides guidance, technical data or rulemaking to quantify the state's obligation. *EPA v. EME Homer City Generation, L.P.,* 134 S. Ct. 1584, 1601 (2014). UDEQ therefore additionally addressed 110(a)(2)(D)(i) prongs 1 and 2 for the 2008 ozone NAAQS as part of its December 22, 2015 infrastructure submittal that otherwise addressed the 2012 $PM_{2.5}$ NAAQS. As stated, the EPA is proposing action on both the January 31, 2013 and December 22, 2015 certifications with regard to prongs 1 and 2 for the 2008 ozone NAAQS.

In its subsequent December 22, 2015 infrastructure submittal, UDEQ acknowledged the changed legal landscape, and asserted that emissions from the State did not significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in any other state. The Department cited air quality modeling assessing interstate transport of ozone that was released by the EPA on August 4, 2015, and explained that it did not consider the modeled contribution levels to nonattainment and maintenance receptors in the Denver, Colorado area and in southern California to be significant.

As noted by UDEQ, the EPA shared technical information with states to assist them with meeting section 110(a)(2)(D)(i)(I) requirements for the 2008 ozone NAAQS. The EPA developed this technical information following the same approach used to evaluate interstate contribution in CSAPR in order to support the recently proposed Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS, 80 FR 75706 (Dec. 3, 2015) ("CSAPR Update Rule"). In CSAPR, the EPA used detailed air quality analyses to determine whether an eastern state's contribution to downwind air quality problems was at or above specific thresholds. If a state's contribution did not exceed the specified air quality threshold, the state was not considered "linked" to identified downwind nonattainment and maintenance receptors and was therefore not considered to significantly contribute or interfere with maintenance of the standard in those downwind areas. If a state exceeded that threshold, the state's emissions were further evaluated, taking into account both air quality and cost considerations, to determine what, if any, emissions reductions might be necessary. For the reasons stated below, we believe it is appropriate to use the same approach the EPA used in CSAPR to establish an air quality threshold for the evaluation of interstate transport requirements for the 2008 ozone standard.

On August 4, 2015, the EPA issued a Notice of Data Availability (NODA) containing air quality modeling data that projects interstate transport contributions for the year 2017 for the 2008 8-hour ozone NAAQS.[4] The modeling data released in the NODA was also used to support the proposed CSAPR Update Rule and is also cited by UDEQ in its updated 2008 ozone submittal. Since the moderate area attainment date for the 2008 ozone standard is July 11, 2018,

4 Notice of Availability of the Environmental Protection Agency's Updated Ozone Transport Modeling Data for the 2008 Ozone National Ambient Air Quality Standard (NAAQS), 80 FR 46271 (August 4, 2015).

states will use 2015 through 2017 ambient ozone data in order to demonstrate attainment by this attainment deadline--meaning the 2017 ozone season will be the last full season from which data can be used to determine attainment of the NAAQS. The D.C. Circuit's decision in *North Carolina v. EPA* requires that the EPA coordinate interstate transport compliance deadlines with downwind nonattainment deadlines. As noted in EPA's proposed CSAPR Update Rule, the Agency interprets the *North Carolina* decision to compel EPA to identify upwind reductions and implementation programs to achieve these reductions, to the extent possible, for the 2017 ozone season. Therefore, the EPA determined that 2017 is an appropriate future year to model for the purpose of examining interstate transport for the 2008 8-hour ozone NAAQS. The Agency used photochemical air quality modeling to project ozone concentrations at air quality monitoring sites to 2017 and estimated state-by-state ozone contributions to those 2017 concentrations. This modeling used the Comprehensive Air Quality Model with Extensions (CAMx version 6.11) to model the 2011 base year, and the 2017 future base case emissions scenarios to identify projected nonattainment and maintenance sites with respect to the 2008 8-hour ozone NAAQS in 2017. The EPA used nationwide state-level ozone source apportionment modeling (CAMx Ozone Source Apportionment Technology/Anthropogenic Precursor Culpability Analysis technique) to quantify the contribution of 2017 base case nitrogen oxides (NOx) and volatile organic compounds (VOC) emissions from all sources in each state to the 2017 projected receptors. The air quality model runs were performed for a modeling domain that covers the 48 contiguous United States and adjacent portions of Canada and Mexico.

The EPA used the modeling released in the NODA to support its proposed CSAPR Update rulemaking (80 FR 75706, Dec. 3, 2015). As discussed in our CSAPR Update Rule

proposal for the 2008 ozone NAAQS, the air quality modeling (1) identified locations in the U.S. where the EPA anticipates nonattainment or maintenance issues in 2017 for the 2008 ozone NAAQS (these are identified as nonattainment and maintenance receptors), and (2) quantified the projected contributions from emissions from upwind states to downwind ozone concentrations at the receptors in 2017. *Id.* at 75720-30. Consistent with the framework established in CSAPR, the EPA proposed to use a threshold of one percent of the 2008 ozone NAAQS of 75 ppb (0.75 ppb) to identify linkages between upwind states and the downwind nonattainment and maintenance receptors. In the proposed CSAPR Update Rule, the EPA considered eastern states[5] whose contributions to a specific receptor meet or exceed the threshold "linked" to that receptor and we analyzed these states further to determine if emissions reductions might be required from each state to address the downwind air quality problem. *Id.* at 75728.

As to western states, the EPA noted that the 2017 implementation timeframe constrained the opportunity to evaluate the applicability of these criteria to such states and whether additional criteria should be considered in certain circumstances as to western states. Therefore, the EPA proposed to focus the rulemaking on the eastern states while requesting comment on whether to include western states. *Id.* at 75709. Consistent with our statements in the proposed CSAPR Update Rule, the EPA intends to address western states, like Utah, on a case-by-case basis. The modeling data released in the NODA on August 4, 2015, are the most up-to-date information the EPA has developed to inform our analysis of upwind state linkages to downwind air quality

5 For purposes of the proposed CSAPR Update Rule, "eastern" states refer to all contiguous states east of the Rocky Mountains, specifically not including: Montana, Wyoming, Colorado and New Mexico.

problems. We intend to use these data to help evaluate the state's submittals and any potential emission reduction obligations as to the 2008 ozone standard under section 110(a)(2)(D)(i)(I).

As noted earlier, in CSAPR the EPA proposed an air quality threshold of one percent of the applicable NAAQS and requested comment on whether one percent was appropriate.[6] The EPA evaluated the comments received and ultimately determined that one percent was an appropriately low threshold because there were important, even if relatively small, contributions to identified nonattainment and maintenance receptors from multiple upwind states. In response to commenters who advocated a higher or lower threshold than one percent, the EPA compiled the contribution modeling results for CSAPR to analyze the impact of different possible thresholds for the eastern United States. The EPA's analysis showed that the one percent threshold captures a high percentage of the total pollution transport affecting downwind states, while the use of higher thresholds would exclude increasingly larger percentages of total transport. For example, at a five percent threshold, the majority of interstate pollution transport affecting downwind receptors would be excluded.[7] In addition, the EPA determined that it was important to use a relatively lower one percent threshold because there are adverse health impacts associated with ambient ozone even at low levels.[8] The EPA also determined that a lower threshold such as 0.5 percent would result in relatively modest increases in the overall percentages of fine particulate matter and ozone pollution transport captured relative to the amounts captured at the one percent level. The EPA determined that a "0.5 percent threshold

6 CSAPR proposal, 75 FR 45210, 45237 (August 2, 2010).
7 *See also* Air Quality Modeling Final Rule Technical Support Document, Appendix F, Analysis of Contribution Thresholds, Docket ID # EPA-hq-oar-2009-0491.
8 CSAPR, 76 FR 48208, 48236–37 (August 8, 2011)

could lead to emission reduction responsibilities in additional states that individually have a very small impact on those receptors — an indicator that emission controls in those states are likely to have a smaller air quality impact at the downwind receptor. We are not convinced that selecting a threshold below one percent is necessary or desirable."[9]

In the final CSAPR, the EPA determined that one percent was a reasonable choice considering the combined downwind impact of multiple upwind states in the eastern United States, the health effects of low levels of fine particulate matter and ozone pollution, and the EPA's previous use of a one percent threshold in CAIR. The EPA used a single "bright line" air quality threshold equal to one percent of the 1997 8-hour ozone standard, or 0.08 ppm.[10] The projected contribution from each state was averaged over multiple days with projected high modeled ozone, and then compared to the one percent threshold. We concluded that this approach for setting and applying the air quality threshold for ozone was appropriate because it provided a robust metric, was consistent with the approach for fine particulate matter used in CSAPR, and because it took into account, and would be applicable to, any future ozone standards below 0.08 ppm.[11] The EPA has subsequently proposed to use the same threshold for purposes of evaluating interstate transport with respect to the 2008 ozone standard in eastern states in the CSAPR Update Rule.

The EPA's recent air quality modeling shows that multiple upwind states collectively contributed to projected downwind nonattainment or maintenance receptors in Colorado. In

9 *Id.*
10 *Id.*
11 *Id.*

particular, the EPA found that the total upwind states' contribution to ozone concentrations (from linked and unlinked states) to identified downwind air quality problems in Colorado is about 11 percent.[12] Thus, the EPA has found that the collective contribution of emissions from upwind states represent a large portion of the ozone concentrations at projected nonattainment and maintenance receptors in Colorado. As noted, the Agency has consistently found that the one percent threshold is appropriate for identifying interstate transport linkages for states collectively contributing to downwind ozone nonattainment or maintenance problems because that threshold captures a high percentage of the total pollution transport affecting downwind receptors. The EPA believes contribution from an individual state equal to or above one percent of the NAAQS could be considered significant where the collective contribution of emissions from one or more upwind states is responsible for a considerable portion of the downwind air quality problem regardless of where the receptor is geographically located. In this case, five of the states contributing to those identified receptors, including Utah, contribute emissions greater than or equal to one percent of the 2008 ozone NAAQS. Given this data, the EPA is proposing to find that the NODA modeling and its use of the one percent threshold are also appropriate to determine linkages from Utah to downwind nonattainment and maintenance receptors in Colorado with respect to the 2008 ozone NAAQS.

Tables 1 and 2 summarize the air quality modeling results from the August 4, 2015 NODA modeling. The modeling indicates that Utah contributes emissions above the one percent threshold of 0.75 ppb with respect to four receptors in the Denver, Colorado area. These tables

[12] The stated 11% is based on the highest upwind contributions to nonattainment or maintenance receptors in each area. All nonattainment and maintenance receptors had upwind contributions at 9 % or more.

show the monitors in the Denver area to which Utah emissions are modeled to contribute above one percent of the 2008 ozone NAAQS.[13]

Table 1. Maintenance Receptors with Utah contribution modeled above 1%

Monitor I.D.	State	County	Utah Modeled Contribution
80050002	Colorado	Arapahoe	1.66 ppb
80590011	Colorado	Jefferson	1.34 ppb

Table 2. Nonattainment Receptors with Utah contribution modeled above 1%

Monitor I.D.	State	County	Utah Modeled Contribution
80350004	Colorado	Douglas	1.59 ppb
80590006	Colorado	Jefferson	0.87 ppb

Utah's largest contribution to any projected downwind nonattainment site is 1.59 ppb, and its largest contribution to any projected downwind maintenance-only site is 1.66 ppb. Since the NODA modeling indicates that the contributions from Utah are above the one percent threshold of 0.75 ppb with respect to nonattainment and maintenance receptors in the Denver, Colorado area, the EPA is proposing to determine that Utah significantly contributes to nonattainment and interferences with maintenance of the 2008 ozone NAAQS for the Denver, Colorado area.

UDEQ states that, despite the modeling results, emissions from the State do not significantly contribute to nonattainment in the Denver area, but the State does not provide any technical analysis to explain why it believes the modeling results are inaccurate or why, if the results are accurate, the State's level of contribution to Denver-area receptors should be deemed insignificant. Moreover, UDEQ does not address the State's modeled contributions to projected

13 The NODA modeling had taken into account the shutdown of the Carbon Power Plant, which was shut down in April 2015. See Carbon Permit Revocation Letter, in the docket for this action.

downwind maintenance receptors identified by the EPA. Rather, UDEQ cites various SIP-approved area source rules which it asserts will result in additional reductions in ozone precursor emissions as further evidence that emissions from the State do not contribute significantly to nonattainment of the 2008 ozone NAAQS in any other state. The Department listed several VOC emissions limitations on various industries submitted as part of the State's greater $PM_{2.5}$ control strategy which were recently approved by EPA.[14] UDEQ also pointed to a rule prohibiting the sale of water heaters that do not comply with low NOx emission rates which will go into effect on November 1, 2017. UDEQ argued that because NOx and VOC are precursors to ozone, these emission limitations would further reduce ozone transport to nonattainment and maintenance receptors in both Colorado and California, but failed to quantify or explain how these limitations would significantly reduce Utah ozone emissions. UDEQ did not discuss emissions limits or reductions from any other source categories, such as large electric generating units (EGUs) within the State.

Though the EPA considers the measures UDEQ described to be beneficial in reducing ozone transport, UDEQ has not provided any analysis to demonstrate that the reductions will be sufficient to significantly reduce Utah ozone emissions. The Department did not quantify the total anticipated reductions in NOx and VOC emissions from its listed regulations or evaluate the impact of those reductions in downwind air quality at the Denver area receptors. As explained above, the NODA modeling indicates that in spite of the measures Utah describes, emissions from sources in Utah contribute well above the one percent threshold of 0.75 ppb with respect to

14 For more detail, see EPA's final action on these area source rules at 81 FR 9343, February 25, 2016, and the associated docket at EPA–R08–OAR–2014–0369.

nonattainment and maintenance receptors in the Denver, Colorado area. UDEQ has not provided any technical analysis to contradict that information.

UDEQ also states in the 2015 submission that the State does not believe it significantly contributes or interferes with maintenance of the 2008 ozone NAAQS in southern California, citing the State's VOC and NOx emission limitations. UDEQ also cites the general west to east wind direction in the western U.S. as further evidence that Utah emissions are unlikely to significantly impact ozone pollution in southern California. Although the State did not provide a particular technical analysis to support this conclusion, EPA's modeling released in the August 4, 2015 NODA confirms UDEQ's assertion that the State does not significantly contribute to nonattainment or interfere with maintenance in California.

As explained earlier, UDEQ's SIP submissions do not provide an adequate technical analysis demonstrating that the SIP contains adequate provisions prohibiting emissions that will significantly contribute to nonattainment or interfere with the 2008 ozone NAAQS in any other state. Moreover, EPA's most recent modeling indicates that emissions from Utah are projected to contribute to downwind nonattainment and maintenance receptors in the Denver, Colorado area. Accordingly, EPA proposes to disapprove the portion of the January 31, 2013 SIP submittal and the December 22, 2015 submittal addressing CAA section 110(a)(2)(D)(i)(I) prongs 1 and 2 with respect to the 2008 ozone NAAQS. EPA is soliciting public comments on this proposed action and will consider public comments received during the comment period.

2008 Pb NAAQS

UDEQ's analysis of potential interstate transport for the 2008 Pb NAAQS discussed the lack of sources with significant Pb emissions near the State's borders. The Department also noted that there are no Pb nonattainment areas in states neighboring Utah.

As noted in our October 14, 2011 Infrastructure Guidance Memo, there is a sharp decrease in Pb concentrations, at least in the coarse fraction, as the distance from a Pb source increases. *See* "Guidance on Infrastructure SIP Elements Required Under Sections 110(a)(1) and (2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS)." October 14, 2011 at 8. For this reason, the EPA found that the requirements of subsection 110(a)(2)(D)(i)(I) (prongs 1 and 2) could be satisfied through a state's assessment as to whether or not emissions from Pb sources located in close proximity to their state borders have emissions that impact the neighboring state such that they contribute significantly to nonattainment or interfere with maintenance in that state. *Id*. at 8. In that guidance document, the EPA further specified that any source appeared unlikely to contribute significantly to nonattainment unless it was located less than two miles from a state border and emitted at least 0.5 tons per year of Pb. UDEQ's 110(a)(2)(D)(i)(I) analysis specifically noted that there are no sources in the State that meet both of these criteria. EPA concurs with the State's analysis and conclusion that no Utah sources have the combination of Pb emission levels and proximity to nearby nonattainment or maintenance areas to contribute significantly to nonattainment in or interfere with maintenance by other states for this NAAQS. Utah's SIP is therefore adequate to ensure that such impacts do not occur. We are proposing to approve UDEQ's submittal with regard to the requirements of section 110(a)(2)(D)(i) prongs 1 and 2 for the 2008 Pb NAAQS.

IV. Proposed Action

The EPA is proposing to approve CAA section 110(a)(2)(D)(i)(I) prongs 1 and 2 for the 2008 Pb NAAQS, and proposing to disapprove prongs 1 and 2 for the 2008 ozone NAAQS based on consideration of modeling results in EPA's August 4, 2015 NODA. The EPA is soliciting public comments on this proposed action and will consider public comments received during the comment period.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state actions, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes approval of some state law as meeting federal requirements and proposes disapproval of other state law because it does not meet federal requirements; this proposed action does not propose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP does not apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq*

Dated: April 26, 2016.

Shaun L. McGrath,
Regional Administrator,
Region 8.

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